

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**TO H.R. 284**  
**OFFERED BY MR. RYAN OF WISCONSIN**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Medicare DMEPOS  
3 Competitive Bidding Improvement Act of 2015”.

**4 SEC. 2. REQUIRING BID SURETY BONDS AND STATE LICEN-**  
**5 SURE FOR ENTITIES SUBMITTING BIDS**  
**6 UNDER THE MEDICARE DMEPOS COMPETI-**  
**7 TIVE ACQUISITION PROGRAM.**

8       (a) BID SURETY BONDS.—Section 1847(a)(1) of the  
9 Social Security Act (42 U.S.C. 1395w–3(a)(1)) is amend-  
10 ed by adding at the end the following new subparagraphs:

11               “(G) REQUIRING BID BONDS FOR BIDDING  
12 ENTITIES.—With respect to rounds of competi-  
13 tions beginning under this subsection for con-  
14 tracts beginning not earlier than January 1,  
15 2017, and not later than January 1, 2019, an  
16 entity may not submit a bid for a competitive  
17 acquisition area unless, as of the deadline for  
18 bid submission, the entity has obtained (and

1 provided the Secretary with proof of having ob-  
2 tained) a bid surety bond (in this paragraph re-  
3 ferred to as a ‘bid bond’) in a form specified by  
4 the Secretary consistent with subparagraph (H)  
5 and in an amount that is not less than \$50,000  
6 and not more than \$100,000 for each competi-  
7 tive acquisition area in which the entity submits  
8 the bid.

9 “(H) TREATMENT OF BID BONDS SUB-  
10 MITTED.—

11 “(i) FOR BIDDERS THAT SUBMIT BIDS  
12 AT OR BELOW THE MEDIAN AND ARE OF-  
13 FERED BUT DO NOT ACCEPT THE CON-  
14 TRACT.—In the case of a bidding entity  
15 that is offered a contract for any product  
16 category for a competitive acquisition area,  
17 if—

18 “(I) the entity’s composite bid  
19 for such product category and area  
20 was at or below the median composite  
21 bid rate for all bidding entities in-  
22 cluded in the calculation of the single  
23 payment amounts for such product  
24 category and area; and

1 “(II) the entity does not accept  
2 the contract offered for such product  
3 category and area,  
4 the bid bond submitted by such entity for  
5 such area shall be forfeited by the entity  
6 and the Secretary shall collect on it.

7 “(ii) TREATMENT OF OTHER BID-  
8 DERS.—In the case of a bidding entity that  
9 is offered a contract for any product cat-  
10 egory for a competitive acquisition area, if  
11 the entity does not the meet the bid for-  
12 feiture conditions in subclauses (I) and (II)  
13 of clause (i) for any product category for  
14 such area, the bid bond submitted by such  
15 entity for such area shall be returned with-  
16 in 90 days of the public announcement of  
17 the contract suppliers for such area.”.

18 (b) STATE LICENSURE.—

19 (1) IN GENERAL.—Section 1847(b)(2)(A) of the  
20 Social Security Act (42 U.S.C. 1395w-3(b)(2)(A)) is  
21 amended by adding at the end the following new  
22 clause:

23 “(v) The entity meets applicable State  
24 licensure requirements.”.

1           (2) CONSTRUCTION.—Nothing in the amend-  
2           ment made by paragraph (1) shall be construed as  
3           affecting the authority of the Secretary of Health  
4           and Human Services to require State licensure of an  
5           entity under the Medicare competitive acquisition  
6           program under section 1847 of the Social Security  
7           Act (42 U.S.C. 1395w–3) before the date of the en-  
8           actment of this Act.

9           (c) GAO REPORT ON BID BOND IMPACT ON SMALL  
10          SUPPLIERS.—

11           (1) STUDY.—The Comptroller General of the  
12          United States shall conduct a study that evaluates  
13          the effect of the bid surety bond requirement under  
14          the amendment made by subsection (a) on the par-  
15          ticipation of small suppliers in the Medicare  
16          DMEPOS competitive acquisition program under  
17          section 1847 of the Social Security Act (42 U.S.C.  
18          1395w–3).

19           (2) REPORT.—Not later than 6 months after  
20          the date contracts are first awarded subject to such  
21          bid surety bond requirement, the Comptroller Gen-  
22          eral shall submit to Congress a report on the study  
23          conducted under paragraph (1). Such report shall  
24          include recommendations for changes in such re-  
25          quirement in order to ensure robust participation by

- 1 legitimate small suppliers in the Medicare DMEPOS
- 2 competition acquisition program.

